



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:	)	
	)	
TROY COLLIER,	)	
	)	
Complainant,	)	
	)	Charge No.: 1995CF1004
and	)	EEOC No.: 21B950246
	)	ALS No.: 9002
ECONOMY FIRE & CASUALTY CO.	)	
and ST. PAUL INSURANCE CO.,	)	
	)	
Respondents.	)	

**RECOMMENDED ORDER AND DECISION**

On August 23, 1995, Complainant, Troy Collier, filed a complaint in this forum on his own behalf. That complaint alleged that Respondents, Economy Fire & Casualty Company and St. Paul Insurance Company, discriminated against Complainant on the bases of his age, his sex, and a physical handicap when they harassed him and refused him reasonable accommodations which would have allowed him to return to work.

On August 23, 1999, in response to a written motion, Administrative Law Judge Paul R. Doyle issued an order granting partial summary decision in Respondents' favor. According to Judge Doyle, some of Complainant's claims survived at least in part because they were not specifically addressed in Respondents' motion.

This matter now comes on to be heard on Respondents' Motion

for Summary Decision on Complainant's Remaining Allegations. The motion was filed on October 14, 1999. Soon thereafter, this matter was stayed while Complainant pursued his claims in federal court.

On November 9, 2000, Complainant's federal suit was dismissed for want of prosecution. The focus of litigation in this matter then returned to this forum.

At a scheduled telephone status conference on June 6, 2001, Respondents moved for a ruling on their pending motion for summary decision. Although a briefing order was entered on the motion, Complainant has not filed any response to the motion and the time for filing such a response has passed. The matter is ready for decision.

#### FINDINGS OF FACT

The following facts were derived from the record file in this matter, including Judge Doyle's August 23 1999 order on Respondents' earlier motion for summary decision.

1. There is no mention of sex in the initial charge of discrimination filed by Complainant with the Illinois Department of Human Rights.

2. There is no mention of retaliation in the initial charge of discrimination filed by Complainant with the Illinois Department of Human Rights.

3. Complainant has failed to file any response to Respondents' motion.

4. Respondents' submissions establish that Complainant's treatment was not due to unlawful discrimination.

#### CONCLUSIONS OF LAW

1. Complainant cannot raise claims of discrimination which were not raised in the initial charge of discrimination or in a properly amended complaint.

2. There is no genuine issue of material fact on any of Complainant's remaining claims.

3. A summary decision in Respondents' favor is appropriate in this case.

4. The complaint in this matter should be dismissed in its entirety, with prejudice.

5. This order incorporates by reference the order entered in this matter on August 23, 1999 by Administrative Law Judge Paul R. Doyle.

#### DISCUSSION

Judge Paul R. Doyle recommended partial summary decision in this matter in his order of August 23, 1999. Most of the facts surrounding this case are contained in Judge Doyle's order, and it would serve no good purpose to repeat them here. Judge Doyle's order is incorporated by reference in this order.

This matter is being considered pursuant to a motion for summary decision. A summary decision is analogous to a summary judgment in the Circuit Court. ***Cano v. Village of Dolton***, 250 Ill. App. 3d 130, 620 N.E.2d 1200 (1st Dist. 1993). Such a

motion should be granted when there is no genuine issue of material fact and the moving party is entitled to a recommended order in its favor as a matter of law. **Strunin and Marshall Field & Co.**, 8 Ill. HRC Rep. 199 (1983).

Two of Complainant's purported claims can be discarded out of hand. As Respondents point out in their motion, a complaint must be based upon the nature of claims "substantially as alleged in the charge previously filed." 775 ILCS 5/7A-102(F)(1). There is no mention whatsoever of sex discrimination or retaliation in the charge of discrimination filed with the Illinois Department of Human Rights. As a result, Complainant cannot raise those claims at this point. See **Grayson and Bimba Mfg. Co.**, \_\_\_ Ill. HRC Rep. \_\_\_, (1993CF1243, November 24, 1997).

Complainant fares no better on his other claims. Respondent submitted documentation of its position that it had legitimate, non-discriminatory reasons for its treatment of Complainant. Because Complainant failed to provide evidence to contest Respondent's submissions, those submissions stand unrebutted and must be accepted as true. **Koukoulomatis v. Disco Wheels**, 127 Ill. App. 3d 95, 468 N.E.2d 477 (1st Dist. 1984). Thus, Complainant has failed to raise a genuine issue of material fact on the issue of pretext and Respondent's motion should be granted.

In **Jones and Burlington Northern Railroad**, 25 Ill. HRC Rep. 101 (1986), the Human Rights Commission faced a situation in

which the respondent had filed a motion for summary decision but the complainant had filed no response. The Commission panel stated, "We will not search the record to find reasons to deny a motion. If a motion appears valid on its face, and if the other side cannot tell us why the motion should not be granted, we will grant the motion." 25 Ill. HRC Rep. at 102. The situation described in **Jones** is precisely the situation in the instant case. Accordingly, Respondent's motion should be granted.

#### RECOMMENDATION

Based upon the foregoing, there are no genuine issues of material fact regarding pretext and Respondent is entitled to a recommended order in its favor as a matter of law. Accordingly, it is recommended that Respondent's motion for summary decision be granted and that the complaint in this matter be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL J. EVANS  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

ENTERED: June 4, 2002